

STATE OF CONNECTICUT

**AUDITORS' REPORT
PUBLIC DEFENDER SERVICES COMMISSION
FOR THE FISCAL YEARS ENDED JUNE 30, 1999 and 2000**

**AUDITORS OF PUBLIC ACCOUNTS
KEVIN P. JOHNSTON ♦ ROBERT G. JAEKLE**

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January 14, 2002

**AUDITORS' REPORT
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FOR THE FISCAL YEARS ENDED JUNE 30, 1999 and 2000**

We have made an examination of the financial records of the Public Defender Services Commission for the fiscal years ended June 30, 1999 and 2000.

This report on that examination consists of the Comments, Condition of Records, Recommendations and Certification, which follow. Financial statement presentation and auditing is done on a Statewide Single Audit basis to include all State agencies. This audit has been limited to assessing compliance with certain provisions of financial related laws, regulations and contracts, and evaluating internal control policies and procedures established to ensure such compliance.

COMMENTS

FOREWORD:

The Public Defender Services Commission operates under the provisions of Title 51, Chapter 887 of the General Statutes. This Chapter authorizes the Commission to provide legal representation to indigent defendants in any criminal action, habeas corpus proceeding arising from a criminal matter, extradition proceeding, or delinquency matter. The Agency is an autonomous body within the Judicial Department for fiscal and budgetary purposes only. The Agency maintains its own business office for fiscal operations and is assigned an agency number for the administration of General Fund appropriations.

Auditors of Public Accounts

Membership of the Commission as of June 30, 2000, was as follows:

Attorney Carl D. Eisenmann, Chairman
Honorable E. Curtissa Cofield
Reverend Monsignor William A. Genuario
Attorney Richard P. Gilardi
Honorable John F. Kavanewsky
Attorney Ramona Mercado-Espinoza
Diane E. Randall

In addition to the members listed above, Attorney Linda J. Kelly also served on the Commission during the audited period.

Section 51-290 of the General Statutes provides for the appointment of a Chief Public Defender by the Commission. Duties of the Chief Public Defender include the direction and supervision of all State Public Defenders and other appointed personnel, as well as, the administration, coordination and control of operation of defender services throughout the State. Gerard A. Smyth continued to serve as Chief Public Defender throughout the audited period.

RÉSUMÉ OF OPERATIONS:

General Fund Receipts:

General Fund receipts of the Commission consisted primarily of Federal aid, State matching contributions and refunds of expenditures. A summary of receipts for the audited period follows:

	<u>Fiscal Year Ended June 30,</u>	
	<u>1999</u>	<u>2000</u>
Restricted contributions, Federal	\$ 970,010	\$1,094,091
Restricted contributions, other than Federal	364,318	306,479
Refunds of current year expenditures - budgeted	105,309	112,811
All other receipts	<u>4,446</u>	<u>9,973</u>
Total General Fund Receipts	<u>\$1,444,083</u>	<u>\$1,523,354</u>

General Fund receipts increased \$161,552 (12.6 percent) and \$79,271 (5.5 percent) for the fiscal years ended June 30, 1999 and 2000, respectively. Increases were due primarily to increases in Federal grant funding. Federal restricted contributions during the audited period consisted primarily of pass-through grants administered by the State Office of Policy and Management from the U.S. Department of Justice. Substantial funds received were part of the Drug Control Grant and are primarily used for the personal services and fringe benefits of additional attorneys and social workers that specialize in cases involving drug related crimes or drug-dependent clients. Substantial grant funds were also received for the expansion of

juvenile public defender offices including personal services and fringe benefits of additional attorneys and social workers to assist with increases in juvenile cases.

The refunds of current year expenditures include the collection of a \$25 fee from clients once their case is accepted by the Public Defender's Office. This fee is considered to be a reimbursement of public defender services. Fee collections amounted to \$84,676 and \$82,296 during the respective audited years.

General Fund Expenditures:

Expenditures of the Commission are paid through General Fund appropriations. A summary of these expenditures by major object, for each of the fiscal years audited is presented as follows:

	<u>Fiscal Year Ended June 30,</u>	
	<u>1999</u>	<u>2000</u>
Budgeted Accounts:		
Personal services	\$19,569,196	\$22,246,091
Contractual services:		
Attorney fees and other professional services	2,949,019	5,346,470
Other	815,412	885,836
Commodities	180,161	330,576
Sundry		66,742
Equipment		454,424
Total Budgeted Accounts:	<u>23,513,788</u>	<u>29,330,139</u>
Restricted Accounts:		
Federal Accounts	955,287	1,165,121
Other than Federal Accounts	<u>358,507</u>	<u>330,233</u>
Total Restricted Accounts:	<u>1,313,794</u>	<u>1,495,354</u>
Total General Fund Expenditures	<u>\$24,827,582</u>	<u>\$30,825,493</u>

Total General Fund expenditures increased \$2,062,232 (9 percent) and \$5,997,911 (24 percent) for the fiscal years ended June 30, 1999 and 2000, respectively. The large increase in 1999-2000 fiscal year expenditures was largely attributable to the settlement of a class action suit that was initiated in January 1995, challenging the adequacy of services being provided by the Agency. A settlement was reached in July 1999 resulting in increased staffing levels and rates paid to contractual attorneys.

Personal services paid from budgeted accounts increased \$1,757,786 and \$2,676,895 during the respective audited years. The increases were due largely to annual full-time wage increases, as well as, an increase of 31 full-time positions in the 1999-2000 fiscal year as result of the settlement of a lawsuit, as previously noted. General Fund filled positions for the audited periods were as follows:

	<u>6/30/99</u>	<u>6/30/00</u>
General Fund Budgeted Accounts:		
Full-time positions	300	331
Part-time positions	<u>7</u>	<u>7</u>
Budgeted Accounts	307	338
Private Restricted Accounts:		
Full-time positions	<u>25</u>	<u>25</u>
Total	<u>332</u>	<u>363</u>

Contractual services for professional fees increased \$2,397,451 during the 1999-2000 fiscal year. This increase was primarily attributable to the settlement of a class action lawsuit, which resulted in an increase of 40 to 50 percent in hourly rates paid to private attorneys hired as Special Public Defenders. Equipment purchases of \$454,424 during the 1999-2000 fiscal year were mainly for office equipment and electronic data processing equipment.

In addition to General Fund expenditures, the Agency also purchased equipment through the Capital Equipment Purchases (1872) Fund totaling \$267,568 and \$8,175 during the respective audited years.

PROGRAM EVALUATION:

Section 2-90 of the General Statutes authorizes the Auditors of Public Accounts to perform program evaluations. The Public Defender Services Commission (PDSC) maintains 31 field offices located in Judicial District and Geographic Area Courts. During the audited period, the PDSC developed and implemented a new case tracking system using Microsoft's Access program. The Agency's goal was to implement an automated case tracking system at all public defender offices. We have selected to review the implementation of this new system and its effect on Agency operations.

Prior to the implementation of the new Access Case Tracking System, the Agency used the Automated Public Defender Information System (APDIS). The APDIS was implemented in 1992 in cooperation with the Judicial Information System's (JIS) Criminal/Motor Vehicle System. A major drawback of this system was the high operating costs imposed by JIS that limited the use of this system. The APDIS System was used at only four locations with total operating costs that ranged between \$24,000 to \$32,000, annually. By 1997, the Agency determined that this system's costs were too prohibitive to serve as a case management system for all of its operating locations and turned its effort into designing their own in-house system.

The Access Case Tracking System was developed in-house with the assistance of an outside consultant. Actual design and installation of this system began in August 1999 at a cost of \$15,500 that included consulting costs and training for the development and installation of the system. Operationally, the system provides public defender offices an automated system to maintain client and case information, generate reports in various

formats, analyze data, archive records, and manage caseloads. Implementation of this system automated many case management operations that were previously performed manually and made such information readily accessible with the elimination of data entry by the PDSC. With the transfer of data to the Central Office, the System provides management with a means for tracking statistical caseload data needed for budgeting and allocation of resources. Since this system uses an existing software program used by the Agency, annual operating expenses previously paid to JIS were eliminated.

As of June 30, 2001, the System has been implemented in a total of 19 out of the 31 operating units and it is anticipated that the new system will be operational at all locations by December 31, 2003. The Agency has been successful in increasing its client case tracking, reporting and monitoring capabilities through the periodic implementation of the new Access Tracking System at its regional operating units and in eliminating the high operating costs of the former case tracking system.

CONDITION OF RECORDS

Our review of the records of the Public Defender Services Commission revealed several areas requiring improvement or further comment as discussed below:

Cash Receipts:

Criteria: Section 4-32 of the General Statutes requires that each State Department deposit and account for receipts totaling \$500 or more within 24 hours. Receipts totaling less than \$500 may be held up to seven calendar days before deposit. The Agency was granted a two-business day waiver throughout the audited period for the deposit of receipts. Also, a seven-business day waiver, through November 30, 1999, was granted for the reporting of receipts to the State Treasurer.

Conditions:

- 1) Our test check of 25 deposits during the fiscal years ended June 30, 1999 and 2000, which included a total of 173 cash receipts totaling \$6,360, disclosed the following:
 - five out of the 173 cash receipts transactions, totaling \$125, were deposited between two and 22 days late.
 - 13 out of the 25 deposits, totaling \$3,758, were reported to the State Treasurer between one and 23 days late.
- 2) On April 16, 2001, the Agency notified the Offices of the State Comptroller and the Auditors of Public Accounts of receipts totaling \$275, that were collected by an individual field office, which the Agency was unable to account for by bank deposit.

Effects:

- 1) Receipts that are not deposited and reported timely, in accordance with laws and regulations, may compromise the security and proper accounting of receipts.
- 2) Loss of State revenue.

Causes: Inadequate procedures and safeguards by individual field offices.

Recommendation: Receipts should be deposited and reported properly and in a timely manner in compliance with Section 4-32 of the General Statutes. (Recommendation 1.)

Agency Response: "Late reporting can be attributed to delays in receiving bank deposit receipts from the bank, as bank bags containing such receipts may have been delivered to the wrong location by the armored car service or bank deposit receipts may be missing from such bags. In many court locations there is one central mail location for armored car deliveries where receipts can

inadvertently be picked up by the wrong office. These delays in trying to locate our agency bank deposit receipts have caused late reporting of deposits.

During this audit period, the agency also experienced some staffing changes due to the loss of permanent personnel in our field offices through retirement, resignation or leaves of absences. As a result of delays in refilling these permanent positions, temporary staff had to be used at some locations to perform office support functions. Some delays in the depositing and reporting of receipts may have occurred during this period due to the unfamiliarity of temporary staff with the agency's procedures for processing reimbursement receipts.

Corrective measures to avoid the recurrence of such incidents have been taken. We have again reiterated the agency's policy and procedures to all field offices and stressed the importance of strict adherence to these procedures to enable this agency to be in compliance with the state rules and regulations and audit reviews. Vacant positions have now been filled with permanent personnel who are aware of and who adhere to the agency and state procedures regarding deposits. These measures will enable this agency to be in full compliance with CGS 4-32.

Receipts totaling \$275, that were collected by an individual field office, could not be accounted for by bank deposit. This was discovered by the agency and was immediately reported to the Office of the State Comptroller and the Auditors of Public Accounts. Collection of all fees in this particular office were immediately suspended. After careful investigation, the agency has concluded that these receipts were misplaced by personnel in this field office. In order to avoid the recurrence of such incidents, the agency has stressed to the field offices the importance of strict adherence to this agency's policies and procedures. All receipts held in an office are to be properly safeguarded and retained in a safe and secure place until daily deposits are made."

Equipment Inventory:

Criteria:

The State of Connecticut's Property Control Manual establishes the criteria for maintaining an inventory system. The requirements include the proper tagging, recording, and accounting for applicable equipment. Also, component parts of equipment should be tagged separately if the part can be used independently from the remaining pieces of the unit.

- Conditions:*
- (1) Four out of 25 equipment items randomly selected for our physical check of inventory did not have the Agency's designated State tag number attached.
 - (2) Three out of 25 items randomly selected from the Agency's inventory listing had incorrect locations listed.
 - (3) One out of 11 items selected from the Agency's premises had a State tag number attached that does not exist on the Agency's inventory listing. The item was identified by serial number on the Agency inventory listing as a different tag number at the same location.
 - (4) Computer monitors are usually purchased as part of a computer package. The Agency considers monitors to be a component part of the computer and they are not tagged. The computer tag numbers do not reference any identifying number for the monitor on the inventory listing. A prior audit review of the Agency's list of monitors assigned to new CPUs at the Hartford Office disclosed instances where monitors were not located with corresponding computer units. As a follow-up, we obtained a listing of CPUs purchased during the current audit period and requested serial numbers for corresponding monitors according to the Agency's inventory system. Out of 16 CPUs and monitors, two monitors and two CPUs were not found at the location listed.

Effect: Without proper maintenance of the property control system, property control records become inaccurate and non-current, thereby, leading to a misstatement of inventory values.

- Causes:*
- (1) Older State tags may have fallen off equipment items and were never replaced.
 - (2) Various items, which are no longer used by the Agency, were not properly disposed of and removed from inventory records.
 - (3) The cause was not determined.
 - (4) There was a lack of communication between the Data Processing Unit and the Administrative Services Unit for the updating of inventory records.

Recommendation: The Department should strengthen its controls over equipment inventory in order to safeguard assets, provide accurate

information and comply with laws and regulations.
(Recommendation 2.)

Agency Response: “Untagged equipment items are the result of older style tags having fallen off the items due to deterioration of the glue. Those items with tags missing have been re-tagged with new style self-sticking tags that are currently in use by the agency.

The listing of incorrect item locations on the inventory resulted from the failure to dispose of outdated and unused equipment and remove it from the inventory. The agency has implemented disposal of surplus property agency wide by requesting all office supervisors and secretaries to notify the agency’s Manager of Administrative Services of items on their office inventory that are no longer in use. These items will be disposed of through the State’s Property Distribution Center.

A single item was found to have a tag number different from that listed on the agency’s inventory. It is believed that this was an older piece of equipment that was mistakenly double tagged.

The two CPUs and monitors that were found at different locations from those listed on the inventory had been moved by the Systems Unit, but this had not been reported to the Administrative Services Unit in a timely manner. In order to avoid recurrence in the future, responsibility for communicating all changes in inventory information to the responsible person in the Administrative Services Unit has been assigned to a single individual in the Systems Unit. This will insure consistency and reliability in keeping the inventory accurate and up to date.”

Monitoring of Contracted Attorney Services:

Criteria: Agency procedures require that Public Defender offices submit monthly reports to the Central Office indicating the number of cases that were assigned to private attorneys during the month. Such reports are compiled and used to monitor contractual payments.

Conditions: Our test checks of expenditures included the review of 15 contracts with private attorneys. The review of these contracts disclosed the following exceptions:

- (1) For two of the contracts reviewed during the 1999-2000 fiscal year, caseload reports were not in agreement with contractual payments as follows:

- (a) One contractual attorney was paid to handle ten cases but caseload reports disclosed that only eight cases had been assigned.
- (b) A second contractual attorney was paid to handle 15 cases but caseload reports disclosed that only ten cases were assigned.
- (2) A 1999-2000 fiscal year contract called for a contractual attorney to handle up to five cases. Per caseload reports, this attorney had been assigned 14 cases. Documentation of an amended contract increasing the attorney's caseload to 14 was not in file.
- (3) During the 1999-2000 fiscal year, public defender supervisors at two locations had not signed monthly caseload reports. Seven monthly caseload reports at one location and eight at the second were submitted without signature.

Effect: Weaknesses in monitoring caseload activity of contracted attorney services increases the risk that services paid for are not received.

Cause: An informal system consisting of telephone conversations was used to verify that contractual services were rendered in instances where monthly caseload reporting was not in agreement with contract requirements. However, the resolution of such differences was not adequately documented.

Recommendation: The Agency should strengthen the monitoring of services provided by contractual attorneys. (Recommendation 3.)

Agency Response: "Although written caseload reports from field offices for two contracts were not in agreement with the number of cases for which payment was made, the special public defenders in question were assigned the actual number of cases for which they were paid. In one instance the attorney accepted assignment of 2 cases from another field office to offset the difference and in the other instance the supervisory attorney verified verbally that the full contract quota of cases had been assigned. Notwithstanding, assignment of these additional cases was not documented and corrective action has been taken to avoid a recurrence in the future.

The assignment of 14 cases to an attorney who had originally been awarded a contract for 5 cases was approved by the Public Defender Services Commission as an extension of the original contract. The standard procedure in such situations is to execute an amendment to the contract. In this instance the amendment was not on file, and it is assumed that it was either misplaced or that it was never executed. However, the increase was properly approved

and payments to the attorney correctly reflected the actual number of cases assigned.

Unsigned monthly caseload reports were received from two field offices. In the future, reports will not be accepted without the signature of the responsible supervisory attorney. In addition, offices have been requested to submit a signed final report at the end of the fiscal year, documenting the total number of cases assigned to each contract special public defender during the year. Compliance with all contract requirements will be monitored to insure that all activities are properly documented.”

RECOMMENDATIONS

The prior audit report on the Public Defender Services Commission contained three recommendations. The Agency has taken action to resolve one of these recommendations and the other two are being repeated, along with a new recommendation, as a result of our current examination. The status of the prior audit recommendations is presented below.

Status of Prior Audit Recommendations:

- *The Agency should seek clarification of the fee collection program* - The Commission received clarification from the Legislative Appropriation Committee that their fee collection program is intended to operate on a reimbursement basis and as a result, this recommendation is not being repeated.
- *Receipts should be deposited in a timely manner* - We continued to note instances of receipts that were not deposited and/or reported in accordance with statutory requirements. This recommendation is being repeated (See Recommendation 1.)
- *Inventory procedures should be strengthened* - Some improvements in property control were noted, however, some weaknesses have not been fully rectified and the recommendation is being partially repeated. (See Recommendation 2.)

Current Audit Recommendations:

- 1. Receipts should be deposited and recorded in a timely manner in compliance with Section 4-32 of the General Statutes.**

Comment:

Our test of deposits disclosed instances of receipts that were not deposited or reported within statutory requirements. These late deposits and reporting indicated that the Agency was not in compliance with Section 4-32 of the General Statutes.

- 2. The Department should strengthen its controls over equipment inventory in order to safeguard assets, provide accurate information and comply with laws and regulations.**

Comment:

There were various exceptions noted during our review of the Agency's records. Three items could not be located at the location listed; four items did not have the

Agency's designated tag number attached and one item had the incorrect tag number attached; two computer monitors and two CPUs were removed from the locations listed.

3. The Agency should strengthen the monitoring of services provided by contractual attorneys.

Comment:

Our review of contractual attorney payments noted that caseload reports did not always substantiate that contractual services were rendered. We were told that the Central Office would resolve differences through informal communications with regional offices that was not documented.

INDEPENDENT AUDITORS' CERTIFICATION

As required by Section 2-90 of the General Statutes we have audited the books and accounts of the Public Defender Services Commission for the fiscal years ended June 30, 1999 and 2000. This audit was primarily limited to performing tests of the Agency's compliance with certain provisions of laws, regulations, contracts and grants, and to understanding and evaluating the effectiveness of the Agency's internal control policies and procedures for ensuring that (1) the provisions of certain laws, regulations, contracts and grants applicable to the Agency are complied with, (2) the financial transactions of the Agency are properly recorded, processed, summarized and reported on consistent with management's authorization, and (3) the assets of the Agency are safeguarded against loss or unauthorized use. The financial statement audits of the Public Defender Services Commission for the fiscal years ended June 30, 1999 and 2000, are included as a part of our Statewide Single Audits of the State of Connecticut for those fiscal years.

We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial-related audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Public Defender Services Commission complied in all material or significant respects with the provisions of the certain laws, regulations, contracts and grants and to obtain a sufficient understanding of the internal control to plan the audit and determine the nature, timing and extent of tests to be performed during the conduct of the audit.

Compliance:

Compliance with the requirements of laws, regulations, contracts and grants applicable to the Public Defender Services Commission is the responsibility of the Public Defender Services Commission's management.

As part of obtaining reasonable assurance about whether the Agency complied with laws, regulations, contracts and grants, noncompliance with which could result in significant unauthorized, illegal, irregular or unsafe transactions or could have a direct and material effect on the results of the Agency's financial operations for the fiscal years ended June 30, 1999 and 2000, we performed tests of its compliance with certain provisions of the laws, regulations, contracts or grants. However, providing an opinion on compliance with these provisions was not an objective of our audit, and accordingly, we do not express such an opinion.

We did, however, note certain immaterial or less than significant instances of noncompliance that we have disclosed in the "Condition of Records" and "Recommendations" sections of this report.

Internal Control over Financial Operations, Safeguarding of Assets and Compliance:

The management of the Public Defender Services Commission is responsible for establishing and maintaining effective internal control over its financial operations, safeguarding of assets, and compliance with the requirements of laws, regulations, contracts and grants applicable to the Agency. In planning and performing our audit, we considered the Agency's internal control over its financial operations, safeguarding of assets, and compliance with requirements that could have a material or significant effect on the Agency's financial operations in order to determine our auditing procedures for the purpose of evaluating the Public Defender Services Commission's financial operations, safeguarding of assets, and compliance with certain provisions of laws, regulations, contracts and grants, and not to provide assurance on the internal control over those control objectives.

However, we noted certain matters involving the internal control over the Agency's financial operations, safeguarding of assets, and/or compliance that we consider to be reportable conditions. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of internal control over the Agency's financial operations, safeguarding of assets, and/or compliance that, in our judgment, could adversely affect the Agency's ability to properly record, process, summarize and report financial data consistent with management's authorization, safeguard assets, and/or comply with certain provisions of laws, regulations, contracts, and grants. We believe the findings of weaknesses in internal control over cash receipts, equipment inventory and attorney contracts to be reportable conditions.

A material or significant weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that noncompliance with certain provisions of laws, regulations, contracts, and grants or the requirements to safeguard assets that would be material in relation to the Agency's financial operations or noncompliance which could result in significant unauthorized, illegal, irregular or unsafe transactions to the Agency being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control over the Agency's financial operations and over compliance would not necessarily disclose all matters in the internal control that might be reportable conditions and, accordingly would not necessarily disclose all reportable conditions that are also considered to be material or significant weaknesses. However, we believe that none of the reportable conditions described above is a material or significant weakness.

We also noted other matters involving the internal control over the Agency's financial operations and over compliance which are described in the accompanying "Condition of Records" and "Recommendations" sections of this report.

This report is intended for the information of the Governor, the State Comptroller, the Appropriations Committee of the General Assembly and the Legislative Committee on Program Review and Investigations. However, this report is a matter of public record and its distribution is not limited.

CONCLUSION

We wish to express our appreciation for the cooperation and courtesies extended to our representatives by officials and staff of the Public Defender Services Commission during the examination.

Anthony Turko
Principal Auditor

Approved:

Kevin P. Johnston
Auditor of Public Accounts

Robert G. Jaekle
Auditor of Public Accounts